

REMARKS

Claims 15, 16, 18-24 and 26-33 are pending. Reconsideration is requested.

Claims 18 and 20 were rejected under 35 USC § 112, second paragraph, as being indefinite. The Examiner rejected claim 18 because of the use of "the" in terms which lack antecedent basis. Applicants note that "the inhibition of the action of natural LH" relates to the recitation in claim 15 "LH-RH antagonist only to suppress endogenous LH". The expression "the follicle development" relates to the recitation "and inducing follicle growth..." Nonetheless, the articles are not grammatically necessary and have been deleted from the claims to expedite prosecution. The Examiner also indicated that the expression "higher" in claim 20 is indefinite. Although Applicants disagree with the rejection, in order to expedite prosecution the claim has been amended to recite a dosage range. Reconsideration and withdrawal of the rejection is respectfully requested.

Claims 21-22 and 33 were rejected as being anticipated by Diedrich et al. This rejection is traversed for the following reasons.

Claims 21-22 and 33 recite an improved dosage regimen in which Cetrorelix is applied starting cycle day 1 to 10 and ovulation can be induced between day 9 to 20 of the menstruation cycle or in which Cetrorelix is applied starting cycle day 4 to 8 and ovulation can be induced between day 9 and 20 of the menstruation cycle. There is no teaching in the cited reference of these specific regimens. Accordingly, the reference fails to teach each and every element of the claimed invention, as is required for a rejection under 35 USC § 102. Withdrawal of the rejection is

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respectfully requested.

It is the Examiner's position that Diedrich et al. disclose that suppression of FSH is less pronounced. In fact, Diedrich et al. state the inhibitory effect of Cetrorelix on LH is more pronounced than FSH. Diedrich also says that a conclusion regarding the FSH suppression on the injected FSH cannot be reached due to the possibly prolonged half life. In the 1994 article of Diedrich in Human Reproduction, vol 9 pp 788-791, it is stated that 15 patients were treated with a dose of 3 mg Cetrorelix daily starting on day 7 of the menstrual cycle until ovulation is induced. 5 patients were treated with 1 mg per day. Claim 19 of the present invention describes only the administration of a 0.25 mg/day dosage during a multiple dosing posology. Claim 23 of the present invention teaches not a daily dose, but only the administration of a single or dual dose of 2 mg to 6 mg.

Claims 15-20 and 23-32 were rejected under 35 USC § 103(a) as being unpatentable over Diedrich et al. in view of Felberbaum et al. This rejection is traversed for the following reasons.

With respect to the Felderbaum et al. publication, it is respectfully noted once again that this publication was made less than one year prior to the priority date of the present application and includes in the authorship Klaus Diedrich, one of the inventors of the present application. The Examiner's attention is respectfully directed again to the Declaration filed November 23, 1999. The Declaration establishes that the present inventors were inventors of the relevant subject matter disclosed in the Felderbaum publication, which was disclosed in the publication as a

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result of the fact that one of the inventors, Klaus Diedrich, was an author of said publication. The Examiner's attention is particularly directed to paragraph 3 of the Declaration and to MPEP 2132.01, wherein it is stated that "Applicant can rebut *prima facie* case by showing reference's disclosure was derived from applicant's own work." Accordingly, it is again submitted that the disclosure in Felderbaum publication was derived from Applicants' own work and cannot be properly cited against the application. Applicants note that the Examiner has not addressed the Declaration filed on November 23, 1998. Consideration of the Declaration and withdrawal of the rejection is respectfully requested.

All objections and rejections having been addressed, it is submitted that the application is in condition for allowance, and Notice to that effect is respectfully requested.

Respectfully submitted,

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